

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6025

In Re: RICARDO GUTIERREZ DEPINERES,

Petitioner.

On Petition for Writ of Mandamus. (CA-02-248-5)

Submitted: April 28, 2005

Decided: May 12, 2005

Before WILLIAMS, KING, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Ricardo Gutierrez DePineres, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Ricardo Gutierrez DePineres petitions for writ of mandamus. He requests that this court review the district court's actions following the remand of DePineres' 42 U.S.C. § 1983 (2000) case for further proceedings, to determine whether the district court is complying with this court's mandate.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re First Fed. Sav. & Loan Assn., 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should only be used in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

The relief sought by DePineres is not available by way of mandamus. Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED